



**US Army Corps  
of Engineers**  
St Paul District

**APPLICANT: Charles and Ida  
Fodness**

## **Public Notice**

**ISSUED: 14 July 2009**

**EXPIRES: 14 August 2009**

**REFER TO: 2009-01114-TWP**

**SECTION:404 - Clean Water Act**

1. APPLICATION FOR PERMIT TO discharge fill material in up to 10 acres of wetland adjacent to the St. Louis River in conjunction with the excavation of peat from a 10 acre site. This application includes a request for after-the-fact authorization for unauthorized activities initiated in approximately 1.3 acres of the site.

2. SPECIFIC INFORMATION.

APPLICANT'S ADDRESS: 4598 Lane 58  
Aurora, MN 55705

PROJECT LOCATION: The project site is located in the SE 1/4 of the NE 1/4 of Section 7, T. 57N., R. 15W., St. Louis County, Minnesota.

DESCRIPTION OF PROJECT: The applicants are proposing to excavate peat for commercial sale from a 10 acre site. Peat would be excavated during drier times of the year when standing water was not present on the site. The maximum depth of excavation would be 4 feet, with excavated areas having relatively flat bottoms and flat (10H:1V typical) side slopes.

Excavated peat would be pushed into a temporary stockpile approximately 150 feet by 150 feet in size, from which it would either be directly sold, or transported to an upland handling area for screening before sale.

Excavation would begin at the south and east areas of the site and progress to the north and west. Once excavation was complete, the excavated areas would be allowed to naturally revegetate.

As compensation for the change in wetland type due to the project, and the temporal loss of wetland functions during the 10 year life of the project, a permanent conservation easement would be placed on 28 acres of undisturbed bog (type 8 wetland) located within the NE 1/4 of Section 6, T. 57N., R. 15W., St. Louis County, Minnesota.

QUANTITY, TYPE, AND AREA OF FILL: The project would result in the temporary loss of approximately 10 acres of bog (type 8 wetland). Once excavation was complete, the area would be allowed to naturally revegetate.

VEGETATION IN AFFECTED AREA: The wetland supports white cedar, black spruce, tamarack, and typically associated species.

SURROUNDING LAND USE: The project site is located in a sparsely populated rural area.

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THE FOLLOWING POTENTIALLY TOXIC MATERIALS COULD BE USED AT THE PROJECT SITE: No potentially toxic materials would be required for the project.

THE FOLLOWING PRECAUTIONS TO PROTECT WATER QUALITY HAVE BEEN DESCRIBED BY THE APPLICANT: Excavation would be performed so that all run-off would be contained with the excavated and/or stockpile areas. Excavation activities would be performed during drier parts of the year.

**3. REPLIES/COMMENTS.**

Interested parties are invited to submit to this office written facts, arguments, or objections within 30 days of the date of this notice. These statements should bear upon the suitability of the location and the adequacy of the project and should, if appropriate, suggest any changes believed to be desirable. Comments received may be forwarded to the applicant.

Replies may be addressed to Regulatory Branch, St. Paul District, Corps of Engineers, 1554 Highway 2, Suite 2, Two Harbors, MN 55616. Or, IF YOU HAVE QUESTIONS ABOUT THE PROJECT, call Tim Peterson at the Two Harbors office of the Corps, telephone number (218) 834-6630.

To receive Public Notices by e-mail, go to the St. Paul District web page at <http://www.mvp.usace.army.mil/regulatory/> and sign up by clicking on

Email Notification of Public  
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on the left side of the web site under Notices.

**4. FEDERALLY-LISTED THREATENED OR ENDANGERED WILDLIFE OR PLANTS OR THEIR CRITICAL HABITAT.**

None were identified by the applicant or are known to exist in the permit area. However, St. Louis County is within the known or historic range of the following Federally-listed threatened (T) and endangered (E) species:

<u>Species</u>	<u>Habitat</u>
Grey wolf ( <i>Canis lupus</i> ) (T)	Northern forested areas
Canada lynx ( <i>Lynx canadensis</i> )(T)	Northern forested areas (within critical habitat boundaries)

Neither of the species is known to den in the vicinity of the project site. However, either species could use the site for hunting, resting, or as a travel corridor. The project should not affect either of the species or their critical habitat.

This application is being coordinated with the U.S. Fish and Wildlife Service. Any comments it may have concerning Federally-listed threatened or endangered wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

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**5. JURISDICTION.**

This application is being reviewed in accordance with the practices for documenting Corps jurisdiction under Sections 9 & 10 of the Rivers and Harbor Act of 1899 and Section 404 of the Clean Water Act identified in Regulatory Guidance Letter 07-01. We have made a *preliminary determination* that the aquatic resources that would be impacted by the proposed project are regulated by the Corps of Engineers under Section 404 of the Clean Water Act. Our jurisdictional review and final jurisdictional determination could result in modifications to the scope of the project's regulated waterbody/wetland impacts and compensatory mitigation requirements identified above. An *approved jurisdictional determination* will be made prior to reaching a permit decision, and will be posted on the St. Paul District web page at <http://www.mvp.usace.army.mil/>.

This project comes under the regulatory jurisdiction of the Corps of Engineers because the wetlands are adjacent to an unnamed tributary of the St. Louis River, a navigable water of the United States.

THE APPLICANT HAS STATED THAT THE FOLLOWING STATE, COUNTY, AND/OR LOCAL PERMITS HAVE BEEN APPLIED FOR/ISSUED: The application was also submitted to St. Louis County Planning and Zoning and the Minnesota Pollution Control Agency.

**6. STATE SECTION 401 WATER QUALITY CERTIFICATION.**

Valid Section 404 permits cannot be issued for any activity unless state water quality certification for the activity is granted or waived pursuant to Section 401 of the Clean Water Act. The state Section 401 authority in Minnesota is the Minnesota Pollution Control Agency (MPCA). The St. Paul District has provided this public notice and a copy of the applicant's Section 404 permit application form to the MPCA. If MPCA needs any additional information in order for the Section 401 application to be considered complete by MPCA, the MPCA has indicated that it will request such information from the applicant. It is the permit applicant's responsibility to ensure that the MPCA has received a valid, complete application for state Section 401 certification and to obtain a final Section 401 action from the MPCA.

The MPCA has indicated that this public notice serves as its public notice of the application for Section 401 water quality certification under Minnesota Rules Part 7001. The MPCA has also indicated that the Section 401 process shall begin to commence upon the issuance date of this public notice unless the MPCA notifies both the St. Paul District and the permit applicant to the contrary, in writing, before the expiration date of this public notice.

Any comments relative to MPCA's Section 401 Certification for the activity proposed in this public notice may be sent to:

Minnesota Pollution Control Agency Regional Environmental Management Division,  
Attention 401 Certification, 520 Lafayette Road, North St. Paul, Minnesota 55155-41946.

**7. HISTORICAL/ARCHAEOLOGICAL.**

This public notice is being sent to the National Park Service, the State Archaeologist, and the State Historic Preservation Officer to determine if there are known cultural resources which may be affected by the described work. Any unknown archaeological, scientific, or historical data could be lost or destroyed by the work described in the permit application. However, the latest version of the National

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Register of Historic Places has been consulted and no listed properties (known to be eligible for inclusion, or included in the Register) are located in the project area.

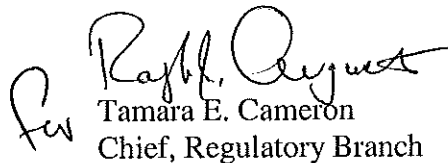
**8. PUBLIC HEARING REQUESTS.**

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, in detail, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

**9. PUBLIC INTEREST REVIEW.**

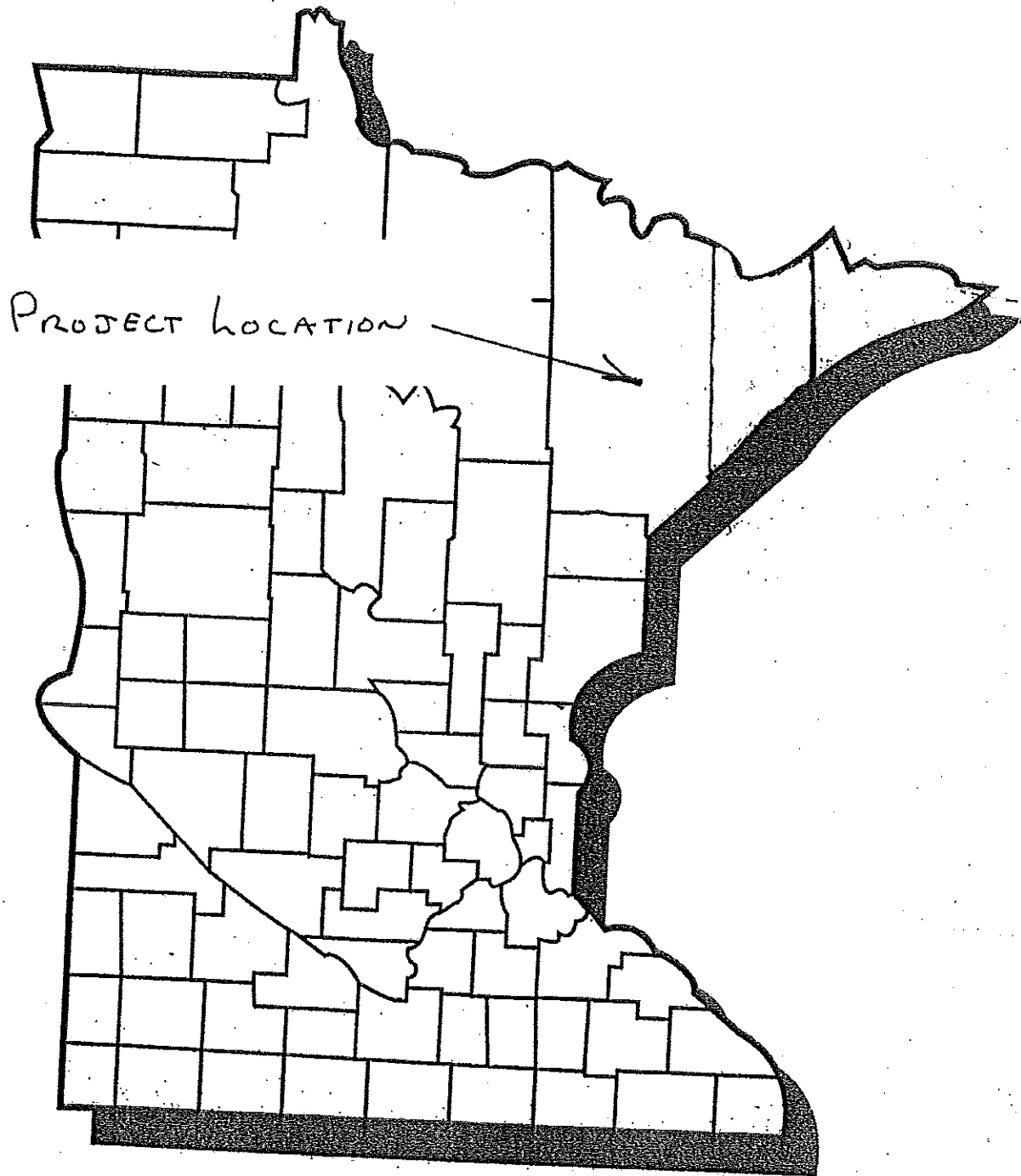
The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. Environmental and other documents will be available for review in the St. Paul District Office.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

  
Tamara E. Cameron  
Chief, Regulatory Branch

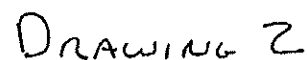
Enclosures

**NOTICE TO EDITORS:** This public notice is provided as background information and is not a request or contract for publication.

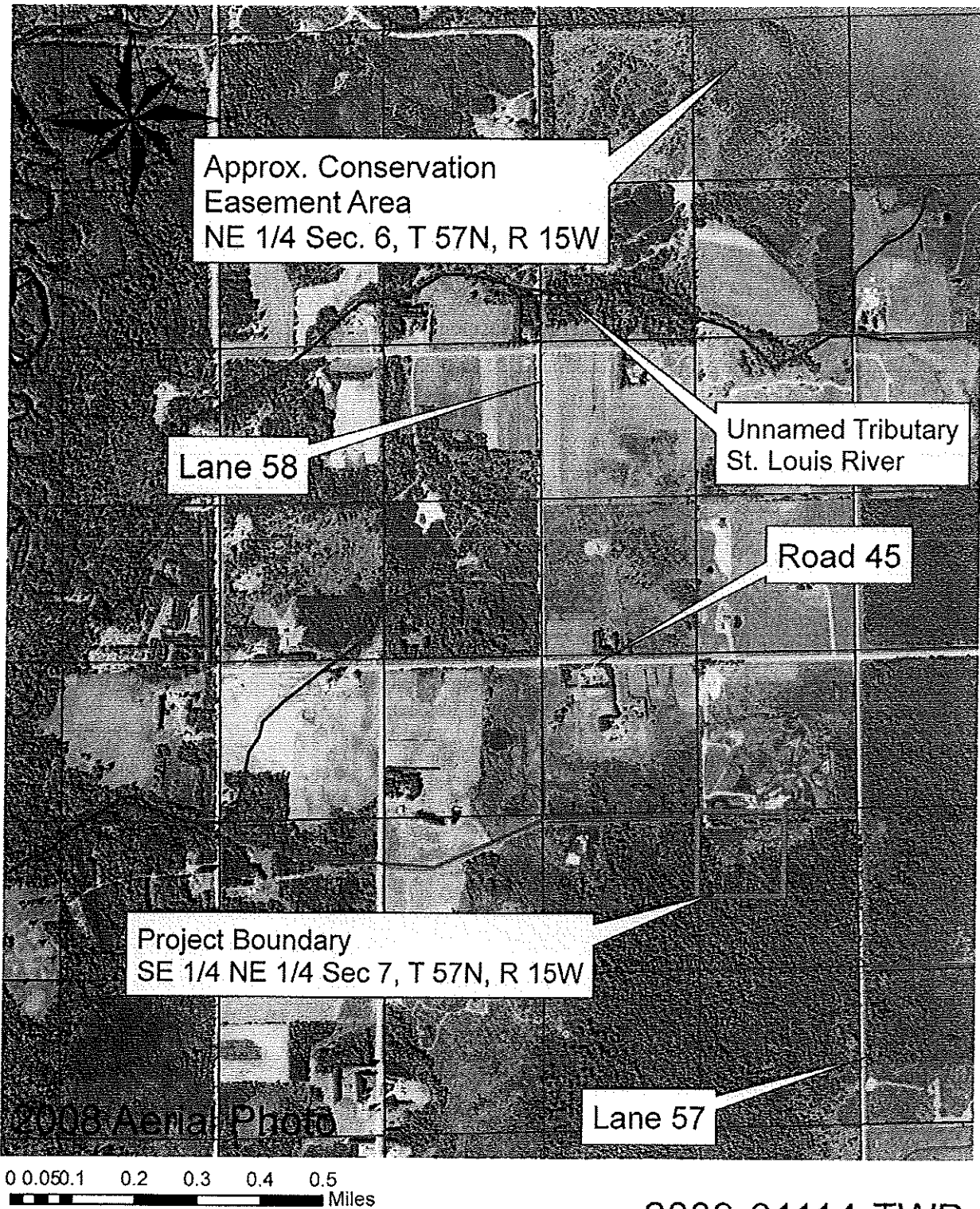


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DRAWING 1

To view township zoning maps, click the desired township.



# Charles and Ida Fodness Peat Mine Proposal

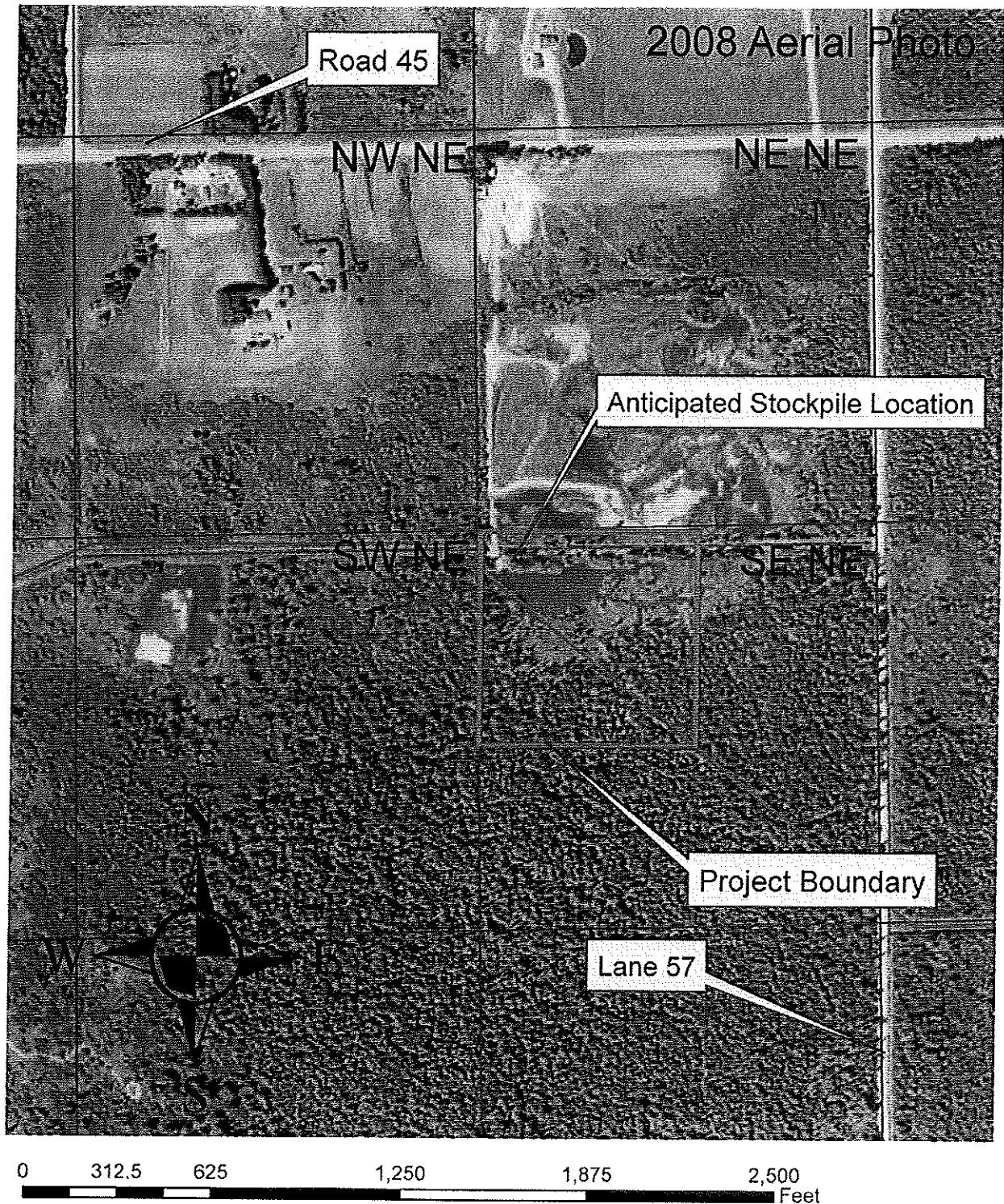


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DRAWING 3



Charles Fodness  
Peat Mine Proposal  
Sec. 7, T. 57N., R 15W.



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DRAWING 4